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**From:**

**Sent:** Monday, July 13, 2009 8:32:13 PM

**To:**

**Cc:**

**Subject:** RE: Another possibility

The amendment to section 6211(b)(4) that added section 35 became effective on December 29, 2007. It is our opinion that this means any deficiency determined after that date is determined by including section 35 as part of 6211(b)(4). Therefore, any notice of deficiency issued after 12/29/07 can treat the excess credit as a deficiency.

Let me know if you need anything further,